

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSHUA PORTER, SHARKEY SIMMONS, and EMANUEL
COLAJAY RIVERA, Individually and on Behalf of All
Others Similarly Situated,

Plaintiffs,

- against -

17-CV-7405 (KAM)(VMS)

**DECLARATION OF
JOHN MOORE
SUBMITTED IN
OPPOSITION TO
PLAINTIFFS' MOTION
FOR CLASS
CERTIFICATION**

MOOREGROUP CORPORATION, BALDWIN HARBOR
CONTRACTING INC., JOHN MOORE, GARY MOORE,
and MARTIN MOORE, Jointly and Severally,

Defendants.

-----X

I, John Moore, declare, as follows:

1. I am the Vice President of defendant, MooreGroup Corporation ("MooreGroup").

I submit this declaration in opposition to the motion filed by plaintiffs, Joshua Porter, Sharkey Simmons and Emanuel Colajay Rivera ("Plaintiffs"), seeking to certify a class action consisting of "all fire guards, welders, carpenters, laborers and other construction employees who worked for the MooreGroup Defendants at any time since December 20, 2011."

2. As detailed in the accompanying memorandum of law, the MooreGroup Defendants oppose this request because Plaintiffs fail to satisfy the requirements under Rule 23 of the Federal Rules of Civil Procedure.

3. As Vice President of MooreGroup, I oversee the day-to-day operations of the MooreGroup and I am responsible for hiring, firing and setting wage rates. I am familiar with the Plaintiffs' and opt-in plaintiffs' allegations.

4. Certification of a Rule 23 Class is inappropriate and will only serve to unnecessarily duplicate efforts made with respect to the previously certified collective action.

5. In conjunction with Plaintiffs' request for a collective action, the MooreGroup produced a list of all individuals who performed services for MooreGroup since the company's inception, a time period exceeding six (6) years.

6. As part of the collective action, any individual who wanted to join this lawsuit was notified and had ample opportunity to do so. Only four (4) individuals opted in.

7. Certifying a Rule 23 Class will not serve the interests of efficiency and only prolong this lawsuit, which is already over three (3) years old.

8. Additionally, many of the individuals Plaintiffs seek to include in the putative class, in excess of twenty-five (25), signed agreements acknowledging they do not have wage and hour claims and, in any event, waived their rights to assert those claims in this forum.

9. The MooreGroup Defendants submit that Plaintiffs' motion should be denied.

I declare under penalty of perjury, under 28 U.S.C. § 1746, that the foregoing is true and correct.

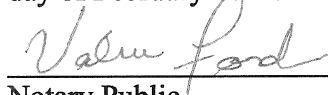
Respectfully,

By: 

John Moore

Individually and as Vice President of
the MooreGroup Corporation

Sworn to on this 12th
day of February 2021.


Notary Public

VALERIE R FORD
NOTARY PUBLIC-STATE OF NEW YORK
No. 01FO6398263
Qualified in Nassau County
My Commission Expires 09-23-2023